

## HUMAN SERVICES BOARD

# INTRODUCTION

## DISCUSSION

The petitioner filed an appeal in this matter on September 10, 2007. On September 17, 2007 the Department filed a motion to dismiss the matter based on lack of subject matter jurisdiction. A telephone status conference was held on October 21, 2007. There is no dispute that the child in question is the subject of an ongoing Family Court CHINS proceeding, and that pursuant to that proceeding the Department has been granted legal control and custody over the child.

The petitioner is the child's maternal grandmother. The child's mother is incarcerated. The petitioner claims to have "power of attorney" from her daughter. However, she does not claim any legal rights or standing over the child. The petitioner and, apparently, her daughter take issue with placement decisions and visitation allowances that the Department has made concerning the child.

ORDER

The petitioner's appeal is dismissed for lack of subject matter jurisdiction.

REASONS

The Board has repeatedly held, as has the Vermont Supreme Court, that the family court has "exclusive jurisdiction" over all proceedings concerning any child who is alleged or adjudicated to be a child in need of care or supervision (CHINS) pursuant to 33 V.S.A. § 633(a). See e.g., Fair Hearing No. 18,351, In Re Susan Kirkpatrick, 147 Vt. 637, 638 (1987). Under the law the Board has no role in reviewing those court decisions, or the decisions by the Department concerning the child made pursuant to its status as the child's legal custodian under that statute. It is not clear whether the petitioner would have standing under CHINS

to seek party status, or to at least testify in her own or her daughter's behalf in family court concerning what she believes is in the child's best interests. However, inasmuch as the Board can only hear cases that are statutorily under its jurisdiction, this matter must be dismissed. 3 V.S.A. § 3091(a).

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